

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PHOENIX NETWORK CORPORATION

ALLEGED VIOLATION OF KRS 278.020
AND KRS 278.160

)
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) CASE NO.
) 89-356
)
)

O R D E R

On December 13, 1989, the Commission issued a Show Cause Order regarding the alleged violation of KRS 278.020 and KRS 278.160 by Charter Network Company ("Charter"), formerly Phoenix Network Corporation ("Phoenix"). On January 5, 1990, the Commission ordered Charter to pay a fine in the amount of \$1,000 and to institute a refund plan to all Kentucky customers. On January 25, 1990, Charter filed a petition for rehearing of the Commission's January 5, 1990 Order. Charter has requested rehearing of three items.

The first issue concerns the termination date for the refund Order. Charter asserts there is a conflict on the face of the Commission's January 5, 1990 Order concerning the date through which refunds are to be made. At one point in the Order, it is stated that Charter shall calculate the amount for services from December 15, 1986 through October 10, 1989. At another point in the Order, Charter is required to make refund payments for intrastate service "from December 15, 1986 through the date of

this Order." The Commission, having reviewed this petition for rehearing, grants rehearing in order to clarify at this time the refund period in its Order. The Commission affirms ordering paragraph numbered 2 in its Order dated January 5, 1990. Charter shall refund its charges to Kentucky residents for Kentucky intrastate service rendered from December 15, 1986 through the date in which Charter was granted certification for authority to operate in Kentucky which was January 5, 1990.

The second issue for which Charter has requested rehearing concerns whether it should refund payments of all charges billed or actual charges collected. Charter has offered to refund the amounts billed rather than the amounts collected. The Commission, having considered this petition for rehearing, grants rehearing on this issue in order to clarify its Order at this time. Charter shall refund amounts billed for services rendered prior to January 5, 1990 rather than the amounts collected.

The third issue for which Charter has requested rehearing concerns the decision to require Charter to refund actual amounts collected rather than using the proposal entitled Alternate A which is a mixture involving actual refunds and calculated refunds. The Commission, having carefully considered Charter's petition for rehearing on this matter, finds that the petition fails to raise any additional facts that could alter the Commission's opinion in this matter.

IT IS THEREFORE ORDERED that:

1. Charter shall make refund payments for intrastate telecommunications service rendered from December 15, 1986 through

January 5, 1990, the date on which Charter received its authorization to provide service in Kentucky.

2. Charter shall be permitted to make refunds based on charges billed by Phoenix rather than amounts collected by Phoenix prior to Charter's authorization to provide service in Kentucky.

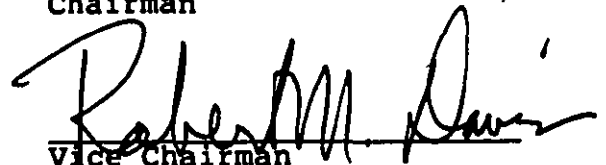
3. Charters Petition for Rehearing to allow refunds to be calculated in accordance with Alternative A is hereby denied.

4. The Order issued January 5, 1990 shall remain in full force and effect in all respects not specifically addressed herein.

Done at Frankfort, Kentucky, this 14th day of February, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director